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Paper No. 14

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OFFICE OF PETITIONS

In re Application of :
Chan W. Lee et al. :
Application No. 09/534,191 :
Filed: March 24 2000 :
Attorney Docket No. 042390.P4740 :

DECISION ON PETITION

This is a decision on the petition, filed June 27, 2004, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of May 12, 2003, which set a three (3) month shortened statutory period for reply. A reply was due on or before August 12, 2003.

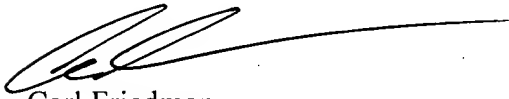
Petitioner indicates that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of an Auto-Reply Facsimile Transmission which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on July 31, 2003 of, *inter alia*, amendment and transmittal letter. A copy of the previously submitted reply accompanies the petition.

The amendment and transmittal letter acknowledged as having been received in the USPTO on July 31, 2003 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the amendment and transmittal were timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on July 31, 2003.

This application is being referred to Technology Center AU 2127 for appropriate action in the normal course of business on the reply received with petition.

A handwritten signature in black ink, appearing to read 'Carl Friedman', with a long horizontal line extending to the right.

Carl Friedman
Petitions Examiner
Office of Petitions